

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RONALD ALLEN JOHNSON,

Defendant-Appellant.

UNPUBLISHED

September 28, 2006

No. 262415

Saginaw Circuit Court

LC No. 02-021183-FC

Before: Borrello, P.J., and Jansen and Cooper, JJ.

PER CURIAM.

Defendant claims an appeal from his sentences imposed on remand. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant was convicted by a jury of conspiracy to commit armed robbery, MCL 750.529 and MCL 750.157a, first-degree home invasion, MCL 750.110a, assault with intent to rob while armed, MCL 750.89, carrying a dangerous weapon with unlawful intent, MCL 750.226, felon in a possession of a firearm, MCL 750.224f, and possession of a firearm during the commission of a felony, MCL 750.227b.

In *People v Johnson*, unpublished opinion per curiam of the Court of Appeals, issued March 10, 2005 (Docket No. 253943), another panel of this Court affirmed defendant's convictions but remanded for resentencing or articulation of substantial and compelling reasons to support a departure from the sentencing guidelines. In addition, the *Johnson* Court ordered that defendant's sentence for felony-firearm should run consecutively to his sentence for first-degree home invasion, only. *Id.*, slip op at 4.

At the resentencing hearing, the trial court did not ascertain on the record that defendant, defense counsel, and the prosecutor had had the opportunity to read and discuss the presentence report. However, defense counsel objected to the recommendation of the probation department, contained in the presentence report, that defendant be sentenced within the guidelines. Furthermore, while the presentence report indicated that defendant had not graduated from high school or obtained a GED, defendant stated that he had obtained his GED in prison. The trial court imposed sentences within the guidelines.

We review questions of law de novo. *People v Petit*, 466 Mich 624, 627; 648 NW2d 193 (2002).

At sentencing, the trial court must determine, on the record, that the defendant, defense counsel, and the prosecutor have been afforded the opportunity to read and discuss the presentence report, and must give the parties the opportunity to explain or challenge the relevancy or accuracy of information in the presentence report. MCR 6.425(E)(1)(a) and (b).

Defendant argues that he is entitled to be resentenced because the trial court did not determine on the record that he and his counsel had had an opportunity to read and review the presentence report, and to challenge the relevancy or accuracy of any information therein. Defendant contends that at a minimum, he is entitled to a remand with instructions that the trial court determine whether it imposed sentence based on accurate information.

We affirm defendant's sentences, and decline to remand this matter for further proceedings. During the resentencing hearing, defense counsel objected to the probation department's sentencing recommendation. That recommendation was contained in the presentence report. Furthermore, defendant informed the trial court that he had completed his GED while he was in prison, thereby impliedly correcting the statement in the presentence report that he had not done so. The statements made by defense counsel and defendant support an inference that they had read the presentence report prior to the hearing. Defendant does not contend otherwise, nor does he point to any inaccuracy in the presentence report that could or should be brought to the trial court's attention on remand. Thus there appears no reason to remand.

The trial court erred by failing to make findings on the record as required by MCR 6.425(E)(1). However, under the circumstances, the error did not result in prejudice to defendant. We conclude that the error was harmless. See *People v Jones*, 270 Mich App 208, 212; 714 NW2d 362 (2006).

Affirmed.

/s/ Stephen L. Borrello
/s/ Kathleen Jansen
/s/ Jessica R. Cooper